

STATE OF MICHIGAN
COURT OF APPEALS

JAMES KURLEND, A

Petitioner-Appellant,

v

CITY OF WALKER,

Respondent-Appellee.

UNPUBLISHED

June 14, 2007

No. 267010

Michigan Tax Tribunal

LC No. 00-314570

Before: Davis, P.J., and Hoekstra and Donofrio, JJ.

PER CURIAM.

Petitioner appeals as of right the Michigan Tax Tribunal (“MTT”) order dismissing his petition challenging respondent’s denial of a principal residence exemption. The MTT found petitioner’s appeal untimely and dismissed it for lack of jurisdiction. We affirm.

“This Court reviews decisions of the Tax Tribunal only to determine whether the tribunal committed an error of law or applied the wrong legal principles.” *Lake Forest Partners 2, Inc v Dep’t of Treasury*, 271 Mich App 244, 247; 720 NW2d 770 (2006).

Under the General Property Tax Act, MCL 211.1 *et seq.*, a principal residence is exempt from the tax levied by a local school district for school operating purposes if the owner of the property claims a principal residence exemption. MCL 211.7cc; *Stege v Dep’t of Treasury*, 252 Mich App 183, 189-190; 651 NW2d 164 (2002). MCL 211.7cc(6) provides, in part:

If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice.

The residential property and small claims division of the MTT has exclusive and original jurisdiction over an appeal of a final determination of a claim for a principal residence exemption. See MCL 205.731(a); MCL 205.762(1); 1999 AC, R 205.1310(1)(a). To invoke the MTT’s jurisdiction, the party in interest must appeal the denial of the claim for the principal residence exemption “to the residential and small claims division of the Michigan tax tribunal

within 35 days of that decision.” MCL 211.7cc(13) (emphasis added). See also MCL 205.735(3) (“the jurisdiction of the tribunal is invoked by a party in interest, as petitioner, filing a written petition within 35 days after the final decision, ruling, determination, or order that the petitioner seeks to review”).

In August 2004, the assessor for respondent City of Walker believed that the property for which petitioner James Kurlenda claimed a principal residence exemption was not petitioner’s principal residence. Thus, the assessor denied the claim for the exemption for calendar year 2004, and for the three immediately preceding calendar years. MCL 211.7cc(6). On August 30, 2004, the assessor notified petitioner, in writing, of the reason for the denial. The notice provided that petitioner could appeal the decision to the residential and small claims division of the MTT within 35 days after the date of the notice. Petitioner did not file a petition in the MTT, challenging the assessor’s decision, until May 2005. Thus, his appeal was untimely. MCL 205.735(3); MCL 211.7cc(13).

“An untimely filing under [MCL 205.735(3)]¹ deprives the MTT of jurisdiction to consider the petition other than to dismiss it.” *Leahy v Orion Twp*, 269 Mich App 527, 532; 711 NW2d 438 (2006), quoting *Electronic Data Systems Corp v Flint Twp*, 253 Mich App 538, 544, 656 NW2d 215 (2002). See also *W A Foote Mem Hosp v City of Jackson*, 262 Mich App 333, 338; 686 NW2d 9 (2004). Thus, the MTT had a duty to dismiss petitioner’s untimely appeal. Petitioner cites no authority to the contrary. “An appellant may not merely announce its position or assert an error and leave it to this Court to discover and rationalize the basis for its claims, unravel or elaborate its argument, or search for authority for its position.” *Blackburne & Brown Mortgage Co v Ziomek*, 264 Mich App 615, 619; 692 NW2d 388 (2004) (citation omitted).

Petitioner also asserts, in his statement of the issues on appeal, that the MTT erred in failing to conduct an in-person hearing before dismissing his petition. However, he fails to address the issue in his brief. Thus, the issue is abandoned. See *Knoke v East Jackson Pub School Dist*, 201 Mich App 480, 485; 506 NW2d 878 (1993). Nonetheless, the MTT was not required to hold a hearing before dismissing petitioner’s appeal. “The Tax Tribunal is at liberty to raise and decide the question of its own jurisdiction on its own motion and at any time.” *Leahy, supra* at 532. Having determined that it had no jurisdiction over petitioner’s appeal, the MTT had no choice but to dismiss his petition without considering his substantive arguments challenging the denial of the principal residence exemption. *Electronic Data Systems, supra* at 544. Petitioner failed to establish that the MTT committed an error of law or applied the wrong legal principles in dismissing his untimely appeal.

Affirmed.

/s/ Alton T. Davis
/s/ Joel P. Hoekstra
/s/ Pat M. Donofrio

¹ Formerly MCL 205.735(2). See 2006 PA 174 (effective May 30, 2006).